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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

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8 WILLIAM ENGLAND, Plaintiff,  
9 v.  
10 ISIDRO BACA, et. al., Defendants.  
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Case No. 3:14-cv-00189-MMD-WGC  
ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
WILLIAM G. COBB

13 **I. SUMMARY**

14 Before the Court is the Report and Recommendation of United States Magistrate  
15 Judge William G. Cobb (dkt. no. 48) ("R&R") relating to Defendants' Motion for Summary  
16 Judgment ("Motion") (dkt. no. 36). The Court has reviewed Plaintiff's objection (dkt. no.  
17 52) and Defendants' response (dkt. nos. 53). The Court accepts and adopts the R&R in  
18 full.

19 **II. BACKGROUND**

20 Plaintiff is an inmate in the custody of the Nevada Department of Corrections  
21 ("NDOC"). He is proceeding *pro se* in this action brought pursuant to 42 U.S.C. § 1983  
22 and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"). The  
23 Court permitted Plaintiff to proceed on two claims under the First Amendment's Free  
24 Exercise Clause and RLUIPA. Plaintiff's allegations and Defendants' responses are  
25 explained in detail in the R&R, which this Court adopts. (Dkt. no. 48 at 2, 6-8.)

26 **III. LEGAL STANDARD**

27 This Court "may accept, reject, or modify, in whole or in part, the findings or  
28 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party

1 timely objects to a magistrate judge's report and recommendation, then the court is  
2 required to "make a *de novo* determination of those portions of the [report and  
3 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). In light of Plaintiffs'  
4 objections, the Court has engaged in a *de novo* review to determine whether to adopt  
5 Magistrate Judge Cobb's recommendation. Where a party fails to object, however, the  
6 court is not required to conduct "any review at all . . . of any issue that is not the subject  
7 of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has  
8 recognized that a district court is not required to review a magistrate judge's report and  
9 recommendation where no objections have been filed. See *United States v. Reyna-*  
10 *Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by  
11 the district court when reviewing a report and recommendation to which no objections  
12 were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003)  
13 (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that district  
14 courts are not required to review "any issue that is not the subject of an objection.").  
15 Thus, if there is no objection to a magistrate judge's recommendation, then the court  
16 may accept the recommendation without review. See, e.g., *Johnstone*, 263 F. Supp. 2d  
17 at 1226 (accepting, without review, a magistrate judge's recommendation to which no  
18 objection was filed).

19 **IV. DISCUSSION**

20 The Magistrate Judge recommends granting Defendants' Motion, as follows: (1)  
21 claims for damages under RLUIPA; (2) claims for damages against Defendants in their  
22 official capacities; (3) claims for injunctive relief under RLUIPA because Plaintiff's  
23 transfer has rendered the conditions alleged in the Complaint moot; and (4) claims under  
24 the Free Exercise Clause. (Dkt. no. 48.) Plaintiff's objection addresses the Magistrate  
25 Judge's recommendation as to the claims under the Free Exercise Clause. The Court  
26 has reviewed the R&R and agrees with the Magistrate Judge's recommendations.

27 Plaintiff's Free Exercise Clause claims are based on Defendants' decision in July  
28 2013 to deny: (count I) Plaintiff access to the chapel, gym or activity room nightly for the

1 thirty days of Ramadan for the reading of the Quran and the breaking of the evening  
2 fast; and (count II) Plaintiff and other inmates the opportunity to participate in their  
3 Islamic Eid al-Fitr feast according to Islam law even though Defendants initially approved  
4 such participation and Plaintiff and other inmates spent their money preparing for the  
5 feast. (Dkt. no. 4 at 4, 11-12; dkt. no. 52 at 3.)

6 In the R&R, the Magistrate Judge thoroughly recited the parties' respective  
7 arguments and analyzed the factors under *Turner v. Safley*, 482 U.S. 78 (1987) to  
8 determine whether deference should be afforded to prison officials and whether the  
9 reasons offered for denying Plaintiff's requests as alleged in counts I and II are  
10 reasonably related to legitimate penological interests. (Dkt. no 48 at 6-13.) Plaintiff  
11 argues that Defendants' claim of security concern should not be given deference  
12 because those security concerns existed before Defendants Baca and Stogner were  
13 placed in their position. (Dkt. no. 52 at 2.) Defendants have offered undisputed evidence  
14 of procedural changes made in 2013 and 2014 to allow inmates to participate in the  
15 celebration of Ramadan and the Eid al-Fitr feast. (Dkt. no. 36-1 at 2-3.) They have also  
16 offered evidence that accommodating Plaintiff's request to congregate nightly in the  
17 evening for group reading of the Quran and breaking of the evening fast for about 40  
18 inmates would present security concerns because of reduction of staffing in the evening,  
19 the chaplain's normal work hours would have to be modified to supervise the religious  
20 services of faith groups that do not have an approved outside sponsor but doing so  
21 would affect the services of other faith groups, and diverting the staff needed to  
22 overseeing the nightly gathering for thirty days would paralyze the remainder of the yard.  
23 (*Id.* at 3-4.)

24 Having reviewed the R&R, the briefs relating to Defendants' Motion and Plaintiff's  
25 objection, the Court agrees with the Magistrate Judge's well reasoned analysis and  
26 recommendations. The Court will therefore adopt the R&R.

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1       **V. CONCLUSION**

2       It is therefore ordered, adjudged and decreed that the Report and  
3       Recommendation of Magistrate Judge William G. Cobb (dkt. no. 48) be accepted and  
4       adopted in full.

5       It is further ordered that Defendants' Motion for Summary Judgment (dkt. no. 36)  
6       is granted.

7       The Clerk is directed to enter judgment in favor of Defendants and close this  
8       case.

9       DATED THIS 25<sup>th</sup> day of March 2016.



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11       MIRANDA M. DU  
12       UNITED STATES DISTRICT JUDGE  
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